

The Federalization of Homeland Security

THE ISSUE:

In the years since it was created, the Department of Homeland Security has spent more than \$250 billion, yet many key homeland security areas continue to produce weak outcomes as more programs federalize traditional state and local activities. From the pork-barrel nature of homeland security grants to the massive federalization of natural disasters to the fed-centric approach to domestic counterterrorism, the more power that is exerted inside the Beltway, the more the role of states and localities is weakened. With far more resources (time, people, money, and expertise), states and localities are ideally suited to lead our domestic homeland security enterprise. The proper role of the federal government is to provide a broad policy architecture and to work as a true partner with states and localities.

THE FACTS:

- **Pork and Politics Drive Grants.** The 9/11 Commission said that homeland security grants were becoming pork-barrel legislation. The commission was right. DHS continues to hand out grants based on highly suspect criteria to too many undeserving jurisdictions that are subject to little or no risk.
- **FEMA Does Too Much.** In the short span of 16 years, the yearly average of Federal Emergency Management Agency declarations tripled from 43 under President George H. W. Bush to 89 under President Bill Clinton to 130 under President George W. Bush. In his first year, President Barack Obama issued 108 declarations—the 12th highest number in FEMA history—without the occurrence of one hurricane or other major disaster.
- **States and Localities Have No Real Say.** State and local governments have far more individuals involved in domestic security than the federal government has. In fact, the state and local personnel advantage is roughly 2,200,000 to 50,000. As for funding domestic security, the eight-year combined budget for DHS and the Department of Justice is roughly \$323 billion. The total eight-year homeland security budget for just the top 26 states and the District of Columbia is at least \$220 billion, or 68 percent of the combined DHS and DOJ budget. When the homeland security budgets of the remaining 24 states and thousands of cities and counties are factored in, state and local homeland security spending certainly exceeds federal spending.
- **States and Local Governments Need a Leadership Role in Responding to All Kinds of National Disasters.** Federal laws, in some cases, undermine the authority of state and local governments during disaster response. For example, the federal response to the Deepwater Horizon spill was conducted under the authorities of the Oil Pollution Act of 1990, using existing plans and procedures for responding to “spills of national significance.” This approach put the federal response at odds with state and local authorities, who are more practiced and familiar with responding to large-scale disasters under the National Response Framework and the Robert T. Stafford Act, where they are supported by rather than subservient to federal authorities. As a result of conflicting expectations, the federal government was unable to organize effective recovery and response operations before major oil flows made landfall, damaging sensitive marshlands, forcing the closing of fishing grounds, and making tourist beaches off-limits. Federal efforts should empower, not hamstring, the ability of state and local governments to take the initiative during any disaster.

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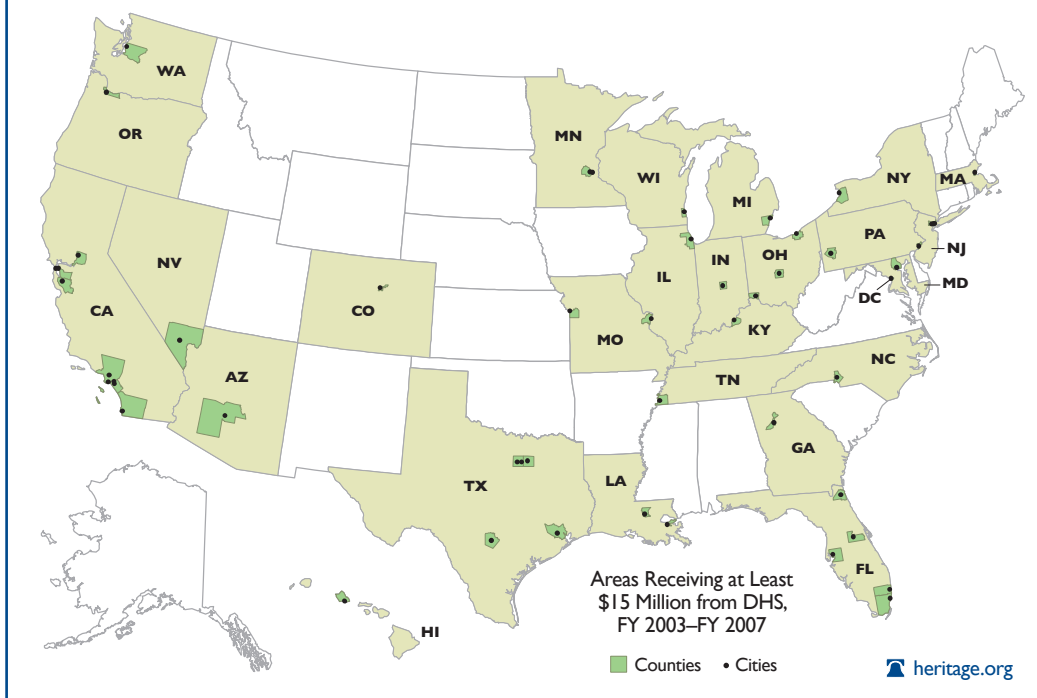
THE SOLUTIONS:

- **Reform the Homeland Security Grant Structure.** Congress should reduce the number of Urban Areas Security Initiative—eligible cities to the 35 highest-risk cities and use cooperative agreements instead of grants. With cooperative agreements, the federal government and the states and localities can sit down as true and equal partners and negotiate outcomes at the beginning, including covering programmatic and financial oversight requirements, and then direct funds to achieve those desired outcomes without the need for yearly applications.

- **Modify the Stafford Act to Curb the Federalization of Natural Disasters.** Congress should establish clear requirements that limit the types of situations in which declarations can be issued—eliminating some types of disasters entirely from FEMA's portfolio. Furthermore, Congress should reduce the cost-share provision for all FEMA declarations to no more than 25 percent of the costs.

- **Give States and Localities a Seat at the National Policy Table.** To ensure that their equities are represented, state and local governments should be provided with a permanent and direct representative group within the executive branch that allows them to participate in the formation of policy from inception to execution. Currently, state, local, and tribal authorities provide input through instruments such as the Department of Homeland Security's Advisory Council (HSAC) and through agencies requesting comment or consultation from stakeholders on proposed programs

Key Jurisdictions Receiving Funds from the Department of Homeland Security



and policies. These have proven inadequate. By law, a Council of Governors has been established to advise the Department of Defense on matters relating to the National Guard. Similar initiatives may be applicable for homeland security. In addition, a means must be established to provide appropriate representation of state, local, and tribal perspectives in the formulation of policy on homeland security issues within the National Security Council staff.

- **Establish Synchronized Federal Response Efforts that Respect Federalism.** Responses to Spills of National Significance should be managed under the National Response Framework. The Oil Pollution Act of 1990 should be amended to make oil spill responses consistent with the Robert T. Stafford Act's intergovernmental approach. Likewise, legislation governing response to other major types of national disasters should be made consistent with the National Response Framework.